

Fines, Penalties, and Forfeitures Officer or his designee is notified that no permit for lawful importation has been issued, he will declare the seized substances contraband and forfeited pursuant to 21 U.S.C. 881(f). Inasmuch as such substances are Schedule I and Schedule II controlled substances, the notice procedures set forth in §162.45 are inapplicable. When seized controlled substances are required as evidence in a court proceeding, they will be preserved to the extent and in the quantities necessary for that purpose.

[T.D. 00-37, 65 FR 33254, May 23, 2000]

§ 162.46 Summary forfeiture: Disposition of goods.

(a) *General.* If no petition for relief from the forfeiture is filed in accordance with the provision of part 171 of this chapter, or if a petition was filed and has been denied, and the property is not retained for official use, it shall be disposed of in accordance with section 609, Tariff Act of 1930, as amended (19 U.S.C. 1609) or section 491(b), Tariff Act of 1930, as amended (19 U.S.C. 1491(b)).

(b) *Articles required to be inspected by other Government agencies.* Before seized drugs, insecticides, seeds, plants, nursery stock, and other articles required to be inspected by other Government agencies are sold, they shall be inspected by a representative of such agency to ascertain whether or not they meet the requirements of the laws and regulations of that agency, and if found not to meet such requirements, they shall be destroyed forthwith.

(c) *Sale—(1) General.* If the forfeited property is cleared for sale, it shall be sold in accordance with the applicable provisions of part 127 of this chapter. The Fines, Penalties, and Forfeitures Officer may postpone the sale of small seizures until he believes the proceeds of a consolidated sale will pay all expenses.

(2) *Transfer to another port for sale.* Property shall be moved to and sold at such other Customs port as the Commissioner of Customs may direct pursuant to the provisions of section 611, Tariff Act of 1930 (19 U.S.C. 1611), if:

(i) The laws of a State in which property is seized and forfeited prohibit the sale of such property; or

(ii) The Commissioner is of the opinion that the sale of forfeited property may be made more advantageously at another Customs port.

(d) *Destruction.* If, after summary forfeiture of property is completed, it appears that the net proceeds of sale will not be sufficient to pay the costs of sale, the Fines, Penalties, and Forfeitures Officer may order destruction of the property. Any vessel or vehicle summarily forfeited for violation of any law respecting the Customs revenue may be destroyed in lieu of the sale thereof when such destruction is authorized by the Commissioner of Customs to protect the revenue.

(e) *Disposition of distilled spirits, wines, and malt liquor.* In addition to disposition by sale or destruction as provided for by this section, distilled spirits, wines, and malt liquor may be delivered:

(1) To any Government agency the Commissioner of Customs or his designee determines has a need for these articles for medical, scientific, or mechanical purposes, or for any other official purpose for which appropriated funds may be expended by a Government agency, or

(2) By gift to any charitable institution the Commissioner of Customs or his designee determines has a need for the articles for medical purposes.

[T.D. 72-211, 37 FR 16488, Aug. 15, 1972, as amended by T.D. 77-12, 41 FR 56629, Dec. 29, 1976; T.D. 79-159, 44 FR 31971, June 4, 1979; T.D. 85-195, 50 FR 50290, Dec. 10, 1985; T.D. 92-69, 57 FR 30640, July 10, 1992; T.D. 99-27, 64 FR 13676, Mar. 22, 1999]

§ 162.47 Claim for property subject to summary forfeiture.

(a) *Filing of claim.* Any person desiring to claim under the provisions of section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608), seized property not exceeding \$500,000 in value (however there is no limit in value of merchandise, the importation of which is prohibited, or in the value of vessels, vehicles or aircraft used to import, export, transport, or store any controlled substance, or in the amount of any monetary instruments within the meaning of 31 U.S.C. 5312(a)(3), that may be seized and forfeited) and subject to summary forfeiture, shall file a